7. Corporations (§ 77*)—Resolution of Directors—Necessary Expense.—A resolution of the board of directors that a bill furnished by defendant for office rent and stenographers' hire should be approved and stock issued to him in satisfaction of the bill was satisfactory evidence that such expenses were proper expenses incident to the successful carrying out of the purposes of the corporation, and were within the obligation of defendant as to input of money to defray same if necessary at that time.

[Ed. Note.—For other cases, see Corporatons, Cent. Dig. §§ 210-212, 219, 243, 455; Dec. Dig. § 77.* 12 Va.-W. Va. Enc. Dig. 812.]

8. Corporations (§ 77*)—Contract to Pay Necessary Expenses.—An input made by defendant to satisfy outstanding obligations should be computed in the calculation of the proportion of common stock to which he is entitled, although funds were received by the corporation because of the exercise of an option subsequent to the input and before the obligations became payable, as he could not have known that the option would be exercised.

[Ed. Note.—For other cases, see Corporations, Cent. Dig. §§ 210-212, 219-243, 455; Dec. Dig. § 77.* 12 Va.-W. Va. Enc. Dig. 812.]

Appeal from Law and Equity Court of City of Richmond.

Suit by Charles A. Holt's executors and another against W. M. Cary and others. From the decree, the named defendant appeals. Reversed.

Jas. E. Cannon and *S. A. Anderson,* both of Richmond, for appellant.

J. M. Perry, of Staunton, for appellees.

VIRGINIA RY. & POWER CO. *v.* HILL.

Jan. 11, 1917.

[91 S. E. 194.]

1. Trial (§ 295 (6)*)—Instructions—Construction as a Whole.—Where plaintiff, riding in a taxicab, was injured by collision with street car at crossing where taxi had the right of way, the evidence being conflicting as to whether motorman or chauffeur was guilty of negligence causing the accident, an instruction that the street railway company would be liable if their motorman was guilty of negligence, which was the proximate cause of the accident, even though the chauffeur was also negligent, was proper, where the whole charge correctly submitted the question of whether one or both were guilty of negligence which was the proximate cause.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 709; Dec. Dig. § 295 (6).* 7 Va.-W. Va. Enc. Dig. 743.]

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

2. Street Railroads (§ 118 (16)*)—Instructions—Proximate Cause of Injury.—In action for personal injuries, an instruction that, if "before the accident occurred" the motorman ran his car into the automobile as result of his negligence which was the proximate cause of the injury, the street railway company was responsible, even though the chauffeur was also negligent, the words "before the accident occurred" did not render the instruction misleading.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. § 260; Dec. Dig. § 118 (16).* 10 Va.-W. Va. Enc. Dig. 414.]

3. Trial (§ 210 (1)*)—Instructions—Incredible Testimony.—The refusal to instruct jury that they are not required to believe incredible testimony, being a self-evident proposition, was not erroneous.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 490, 494; Dec. Dig. § 210 (1).* 7 Va.-W. Va. Enc. Dig. 707.]

4. Street Railroads (§ 118 (1)*)—Instructions—Defining Care Required.—In action against a street railway company and a taxicab company for injuries received by passenger in taxi, in a collision, the refusal to give instruction requested by defendant railroad company to effect that the taxicab company owed plaintiff as a passenger the highest degree of care, while the railroad company owed him only ordinary care, was not erroneous, where the plaintiff did not ask that the taxi company's duty be defined.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. §§ 258, 259; Dec. Dig. § 118 (1).* 15 Va.-W. Va. Enc. Dig. 728.]

5. Street Railroads (§ 118 (8)*)—Instructions—Regulation of Traffic.—In an action for injuries sustained in collision between taxicab and street car at a corner where the ordinance gave the taxi the right of way, an instruction that street cars are not required to stop for vehicles having a right of way "unless a prudent motorman would deem it necessary under all the circumstances" correctly interpreted the ordinance, and it was not erroneous to give this in place of four other instructions which were prolix.

[Ed. Note.—For other cases, see Street Railroads, Cent. Dig. § 264; Dec. Dig. § 118 (8).* 7 Va.-W. Va. Enc. Dig. 707.]

6. Damages (§ 216 (8)*)—Personal Injuries—Loss of Time—Instructions.—Where in a personal injury case the evidence showed that plaintiff was in the hospital three weeks, and for six weeks thereafter was able to devote only a part of each day to his business, although no evidence that the business was affected thereby, an instruction that the jury might consider "any loss of time heretofore sustained by plaintiff from his work as result of his injuries" was not erroneous, where the other elements of damage were correctly stated.

[Ed. Note.—For other cases, see Damages, Cent. Dig. § 553; Dec. Dig. § 216 (8).* 4 Va.-W. Va. Enc. Dig. 188.]

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Error to Hustings Court of Richmond.

Action by Walter C. Hill against the Virginia Railway & Power Company. Judgment for plaintiff, and defendant brings error. Affirmed.

H. W. Anderson, A. B. Guigon, and *T. J. Moore,* all of Richmond, for plaintiff in error.

Nelson & Nelson and *Gunn & Mathews,* all of Richmond, for defendant in error.

VIRGINIA RY. & POWER CO. *v.* HILL.

Jan. 11, 1917.

[91 S. E. 198.]

Damages (§ 130 (1)*)—Excessive—Personal Injuries.—Where plaintiff was thrown from an automobile, and complained of constant pain from injured eye and arm during nine months, and testified that the pain was growing worse, a verdict for $1,000 will not be disturbed as excessive.

[Ed. Note.—For other cases, see Damages, Cent. Dig. § 372; Dec. Dig. § 130 (1).* 4 Va.-W. Va. Enc. Dig. 204.]

Error to Hustings Court of Richmond.

Action by E. Raymond Hill against the Virginia Railway & Power Company. Judgment for plaintiff, and defendant brings error. Affirmed.

H. W. Anderson, A. B. Guigon, and *T. J. Moore,* all of Richmond, for plaintiff in error.

Nelson & Nelson, and *Gunn & Matthews,* all of Richmond, for defendant in error.

FOREST VIEW LAND CO., Inc., *v.* ATLANTIC COAST LINE R. CO.

Jan. 11, 1917.

[91 S. E. 198.]

1. Railroads (§ 94 (5)*)—Construction—Alteration of County Road—Change in Crossing—Statute.—Under Code 1904, § 1294b, cl. 3, providing that a railroad deeming it necessary in the constructon of its works to cross a county road may do so, provided that, if it wishes to change any road to avoid the necessity of any crossing, a change shall be made by agreement between itself and the county board of supervisors, and that for damages to lands it shall make compensation, and in view of § 1294d, cl. 38, declaring the state's policy against grade crossings, a relocation of a county road bounding plaintiff's

---

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.